

NOTICE TO CLASS MEMBERS OF
PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT
DAUGHERTY, ET AL. V. GARGANO, ET AL.

TO: All current Indiana Medicaid recipients who have received or will receive a notice of action to reduce or terminate benefits.

In 2006, six Medicaid recipients filed a lawsuit against the Family and Social Services Administration (FSSA), the Indiana agency that administers Medicaid. Federal law requires that upon receipt of a timely appeal following a notice of action to reduce or terminate benefits, FSSA must maintain benefits at the previous level until the appeal is decided. The Plaintiffs claimed FSSA was not properly maintaining Medicaid benefits pending an appeal for everyone who timely appealed reductions or terminations of their benefits. The Plaintiffs also claimed that FSSA's notices of action to reduce or terminate benefits were hard to read and understand. The lawsuit asked for an injunction, which is an order requiring FSSA to comply with the law. No money damages are being sought.

The case, *Daugherty, et. al. v. Gargano, et al.* (United States Federal District Court for the Southern District of Indiana, Indianapolis Division, Cause No. 1:06-cv-0878- SEB-DML), was certified as a class action. The members of the class are all current and future Medicaid recipients who have received or will receive a notice of action to reduce or terminate benefits.

This notice is being provided to inform class members that the Plaintiffs and FSSA have reached a proposed settlement to resolve the case. The Court will consider any comments from class members before deciding whether the proposed settlement is fair, reasonable, and adequate. The Court will hold a hearing on the proposed settlement on October 7, 2011, at 10:00 a.m. in the United States District Court Room 216 located at 46 East Ohio Street in Indianapolis. If the Court approves the settlement, it will be entered as a "Consent Decree."

Who is affected by this case?

If you receive Medicaid or Hoosier Healthwise, and you have received a Notice of Action to reduce or stop your Medicaid benefits, then you have a right to appeal that decision. **NO ONE'S BENEFITS WILL BE REDUCED OR STOPPED BECAUSE OF THIS LAWSUIT**, but no monetary recovery will flow to any class members as a result of this lawsuit. This lawsuit relates only to your appeal rights when and if FSSA decides your Medicaid or Hoosier Healthwise benefits should be reduced or stopped.

What is this case about?

This case is about your right to appeal a decision by FSSA to stop or reduce your Medicaid or Hoosier Healthwise benefits. Under federal law, FSSA must send you a Notice of Action when FSSA determines your Medicaid benefits must be reduced or stopped. One of your rights is to receive that Notice of Action *before* FSSA takes any action to reduce or stop your Medicaid benefits. The Notice of Action must tell you what action FSSA proposes to take and the reasons for the action. The Notice must tell you the date the reduction or termination of your benefits will take effect. This date is called the "Effective Date."

If and when you get a Notice of Action to stop or reduce your Medicaid benefits, you have the right to appeal and have a fair hearing. If FSSA receives your appeal request *before* the Effective Date, FSSA may not reduce or stop your benefits while you wait for the result of your appeal.

What does the proposed settlement agreement provide?

Briefly, FSSA will be required to do four things for Medicaid beneficiaries:

- Update FSSA's policies and revise the notices to more clearly explain to Medicaid recipients their appeal rights and appeal deadlines.
- Maintain payment of benefits pending an appeal request in appropriate cases.
- Report to Plaintiffs' attorneys and the Court, through compliance reports, information to show maintenance of benefits and compliance with certain benchmarks.
- Institute various quality control measures to ensure the proper maintenance of benefits, and the accuracy of the reports.
- If you would like to see the complete terms of the proposed settlement, please go to FSSA's website, <http://www.in.gov/fssa/dfr/2999.htm>, where you can see a draft of the Consent Decree in its entirety.

What should I do?

You do not need to do anything, unless you disagree with the terms of the proposed settlement. If you would like to comment on the proposed settlement, please mail or email your comments at the earliest opportunity, using the contact information below. Please do not direct your questions to the Court. Plaintiffs' counsel will respond to any questions you may have and provide a summary of all comments received to the Court. If you wish, you may attend the hearing where the judge will consider the comments relating to this agreement.

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You can also contact us by e-mail at: DaughertyClassActionLawsuit@Severns.com. Please put "Daugherty Class Action lawsuit" at the top of your letter.